

# **REZONING UNION SQUARE: A GUIDE FOR CITIZENS, BUSINESSES, AND CITY AGENCIES**

**This guide provides an overview of the zoning amendments as submitted to the Board of Aldermen. The information contained within is based solely on the proposed amendments and subject to change.**

December 8, 2006

The Mayor's Office of Strategic Planning and Community Development  
&  
Somerville Arts Council  
City of Somerville  
93 Highland Avenue  
Somerville, MA 02143



## SUMMARY

The Mayor's Office of Strategic Planning and Community Development (SPCD) and the Somerville Arts Council have undertaken a joint project for the rezoning of Union Square. The focus of the Arts Council effort has been to protect existing arts-related uses in the Square, and to provide incentives for new arts-related uses and other active uses. The focus of the SPCD effort has been to encourage the redevelopment of several key city-owned parcels in the Square for high-density mixed-use development, while creating affordable housing, space for arts-related uses, and other public benefits.

Here is a summary of the key proposed changes to current zoning:

- Citywide, provide greater clarity and predictability for live/work artists housing and work-only studios by adding or amending definitions of these uses in the Zoning Code.
- Within a sub-area of Union Square that contains public parcels with high redevelopment potential, new Planned Unit Development C (PUD-C) provisions will promote the development of high-density housing projects. Height and density bonuses and other incentives in the PUD-C will be contingent on zoning requirements to provide affordable housing, artists housing (both affordable and market-rate), and other arts-related uses.
- Create a Union Square Arts Overlay District that defines the area, within which arts-related zoning changes would apply, to ensure that benefits are focused on the study area and to avoid negative effects on abutting areas or other parts of the city. Within the Overlay District, the zoning will provide incentives for conversion of infill lots and underused space in existing buildings for arts-related uses, by regularizing and streamlining existing requirements for use, density, parking, and review procedures.

## GOAL #1: CITYWIDE, SUPPORT THE CREATION OF LIVE/WORK AND WORK-ONLY ARTISTS STUDIOS

### The challenge: Uncertainty whether artists studios are an allowed use

Somerville is home to one of the highest concentrations of artists of any American city. However, ambiguities in the current citywide zoning can discourage the construction or reuse of structures for arts-related uses in areas that could profit by these activities.

Zoning codes are intended to give predictability to property owners, investors, and neighbors, by setting out clear rules on which specific uses are allowed in specific areas of the community. The current zoning is vague on the definition of live-work artists housing, and it contains no definition of work-only artists studios as an allowable use. This uncertainty can discourage the construction or reuse of structures for arts-related uses in areas that could profit by these activities.

Currently under the Somerville Zoning Code, there is a vague definition of "Artists Housing" for live-work spaces. Up to 4 units of Artists Housing is allowed as-of-right in the Multi-Family Residential (RC), Commercial (BA), and Commercial Residential (BB) districts. A special permit is required for more than 4 units in these districts, and for any number of units in the Central Business District (CBD) and Industrial A (IA) districts. (Artists Housing is the only residential use allowed in the Industrial IA district.) Current zoning also contains a general definition of an

artist's studio as a type of "Accessory Residential Use: Home Occupation." This use is allowable in every district except Industrial IB, if it is located within the same building as the artist's residence.

By contrast, the current zoning does not contain any definition of artists' work-only studio spaces as a permitted use. If an artist's studio were located in a separate building from the artist's residence, it might fall into any of a number of commercial categories, such as office, crafts-related store, or light manufacturing. In addition, under current zoning there is no clear definition of a performing arts studio space that would be used for lessons, rehearsals, and limited performances. Such a space might fall into any of a number of categories, such as community center, commercial health or exercise facility, or school for instruction in arts. Many of the above use categories are barred, or limited in size, within Union Square.

Other cities have addressed these definitional issues in greater detail through their zoning, thereby protecting their arts communities, and providing incentives to the reuse of existing buildings for arts-related uses. Boston, Cambridge, and Amesbury MA each define a work-only studio for artists and craftspeople as a permitted use in certain zoning districts. Boston and Amesbury also define live/work studios separately, as allowing the uses permitted in a work-only studio, plus residential space. (See Appendix A for more details on zoning approaches in these Massachusetts communities.)

#### Recommendations: Clarifying Entitlements to Create Artists Studios

To give greater certainty and predictability under the Zoning Code, a series of definitional changes are proposed. The new zoning would:

- Clarify the definition of live-work "Artist's Housing";
- Define a new use category for work-only "Artist's Studio"; and
- Clarify the definition of artist's studio as a "Home Occupation," to allow such uses within garages, carriage houses, and other accessory buildings on residential lots.

Here is the new text:

"2.2.11. *[Revised]* **Artist's Housing.** Part or all of a building which is used by the occupant thereof for both residential use and Artists Studio Space."

"2.2.11A. *[New]* **Artist's Studio Space.** Space used for the creation, production, rehearsal or teaching of any visual art or craft, including but not limited to painting, drawing, graphic design, photography, video, film, sculpture, and pottery; of written works of fiction or nonfiction; or of any performing art, whether for live or recorded performance, including music, dance, and theater." [The definition also requires the indoor storage of materials, and it prohibits offensive noise, vibration, dust, and other objectionable impacts.]

"2.2.69. *[Revised]* **Home Occupation.** . . . A home occupation shall include, but is not limited to: the studio of a visual artist, craftspeople, musician or other performing artist, photographer, or writer; . . ."

It should also be noted that under current Somerville zoning, there is no process to verify that Artists Housing is actually occupied by the artists that it is intended to benefit. This concern is

heightened for projects that receive density bonuses or other regulatory advantages, in return for a commitment to create artist's housing. To address this issue, the City may create a peer-reviewed program of artists' certification to ensure that studio spaces and artist housing are the subject of zoning incentives or preferences are preserved for the use of bona-fide artists. The certification would only apply to projects that receive zoning relief through the special permit review process. (See Appendix B for more details on how certification programs work in other communities.)

## GOAL #2: CREATE INCENTIVES FOR HIGH-DENSITY HOUSING WITH ARTS-RELATED BENEFITS ON KEY UNION SQUARE DEVELOPMENT PARCELS, THROUGH PUD-C OVERLAY DISTRICT

The Challenge: Insufficient incentives for the redevelopment of key city-owned parcels  
Union Square has not yet achieved its full potential as a lively mixed-use center, but ongoing efforts, including the future extension of the Green Line, have focused attention on several key publicly owned-sites. The City began by undertaking a study of the development potential of four publicly owned sites in the Union Square area. The study showed that current zoning unduly constrains the future reuse of development potential of these sites for high-density housing and related mixed-use development.

The following chart identifies the four sites, the potential development program for each site, and the actions that would be required under **current** zoning to accomplish these programs:

KEY: SP = Special Permit SPSR = Special Permit with Site Plan Review

Site	Site Area	Zoning district	Program: housing units	Program: FAR	Program: parking	Zoning action required
<b>Recreation Building</b>	0.23 acres	RA	8 units	NA	6 spaces	Variance for multi-family housing
<b>SCAT Building</b>	0.31 acres	CBD	4 units	NA	0 spaces	SP for multi-family housing
<b>Kiley Barrel site</b>	0.75 acres	BA	39 – 46 units	1.39 – 1.49	48 – 58 spaces	SPSR for multi-family housing; variances for housing density, setbacks, and parking
<b>Public Safety Building Site</b>	1.89 acres	CBD	108 – 187 units	1.29 – 2.48	194 – 244 spaces	SPSR for multi-family housing; variances for housing density, FAR, height, setbacks, and parking

Recommendations: Provide density and height bonuses for PUD-C projects, contingent on the creation of affordable housing and arts-related uses

Realizing the development potential of the three largest sites, plus adjacent properties, will be incentivized through creation of a new Planned Unit Development C (PUD-C) overlay district in the eastern half of Union Square. Development under the PUD-C requirements would require the grant of a Special Permit with Site Plan Review (SPSR). To encourage the assembly of larger sites, a site must measure at least 25,000 s.f. (0.57 acres) to qualify. Projects taking advantage of the PUD-C overlay would require a special permit with site plan review, to ensure full public input into the review process, and to ensure that adequate mitigation is provided for project impacts. To address these issues, on specific sites the new zoning would:

- Grant density bonuses that increase the maximum Floor Area Ratio (FAR)<sup>1</sup> from 2.0 to 4.0, and increase the maximum housing density from 43 units/acre to 72 units / acre
- Increase the height limit from 4 stories / 50' to as much as 12 stories / 140', but only within the limited C-1 subdistrict
- Maintain 12.5% inclusionary requirement for affordable housing (with up to one-half as live/work Artists' Housing)
- Require that at least 50% of ground floor must be retail or other active non-residential uses
- Require that at least 5% of the total project floor area must be arts-related uses
- Impose design guidelines to assure that new projects reinforce the livable, walkable character of Union Square

The PUD-C requirements will not alter the citywide inclusionary zoning for affordable housing. All residential projects with 8+ units that undergo SPSR review must set aside 12.5% of the units for occupancy by low and moderate income households. Alternatively, the special permit granting authority (SPGA) may allow the creation of units off-site, or allow a cash payment to the City for development of affordable units. Since many artists survive on limited incomes, the creation of affordable housing will help support the arts community. Under the PUD-C zoning, up to one-half of the required affordable housing units **may** be live-work Artists Housing units.

In addition to the creation of affordable housing, PUD-C projects must dedicate at least 50% of the ground floor area for non-residential commercial, industrial, institutional, or recreational uses. The goal is to activate the adjoining sidewalks of Union Square by uses that will bring new customers and employees to the area, as well as residents. This goal is further reinforced by design guidelines, which encourage entrances and retail stores to directly front on the sidewalk, and encourage the location of parking garages and lots away from the sidewalk.

Finally, PUD-C projects must set aside at least 5% of the total floor area for arts-related uses. These could include Artists Housing, Artists Studios, art galleries, crafts stores, or a theatre or other performance space. The arts-related use will be ensured for a minimum of 10 years, through a deed restriction or other enforceable legal document. In this way, PUD-C projects will directly benefit the Union Square arts community.

---

<sup>1</sup> FAR is a zoning technique for controlling the development density on a specific parcel of land; it is defined as the total floor area of the building, divided by the land area of the parcel. Thus, a maximum FAR of 2.0 could allow a two-story building that occupies 100% of the land area, or a four-story building that occupies 50% of the land area.

### GOAL #3: SUPPORT ARTS-RELATED USES IN UNION SQUARE THROUGH CREATION OF ARTS OVERLAY DISTRICT

Preserving and enhancing the character of Union Square for arts-related uses will provide benefits to the area and the entire city. The new Arts Overlay District will protect existing arts-related uses, and provide incentives for the creation of new ones, including artists' housing, artists' studios, theaters, galleries, and crafts stores. New zoning will:

- Provide incentives for conversion of underutilized space in existing buildings for arts-related uses
- Grant density bonuses of up to 25% solely for creation of artists' housing
- Raise the special permit review thresholds for artists' housing from 5 units to 7 units
- Provide incentives for reuse of existing buildings by not requiring any additional parking
- Impose design guidelines to assure that new projects reinforce the livable, walkable character of Union Square

#### The challenge: multiple zoning districts with inconsistent standards

Once the range of arts-related uses have been appropriately defined, the next issue is whether the restrictions imposed on those uses through the Zoning Code strike the right balance of benefits and impacts, or whether the Zoning Code sets overly strict standards that serve as disincentives against the use or reuse of buildings for arts-related uses.

Under the current zoning, Union Square is made up of eight different use districts or zones. Each zone has its own separate standards for permitted uses, dimensional restrictions, off-street parking and loading requirements, and other provisions as well. This patchwork of inconsistent or overly restrictive use requirements can discourage the redevelopment of existing properties.

#### Recommendation: Make standards for art-related uses consistent throughout the new Arts Overlay District

An effective method to encourage certain beneficial uses within an area is to ensure that those uses are subject to uniform standards. The proposal will create a new Union Square Arts Overlay District. Within the various sub-zones of the Overlay District, the new zoning will regularize the permitted use standards and review thresholds<sup>2</sup> that apply to arts-related uses. The new uniform rules are, in general, consistent with the most flexible of the existing subzones within the Overlay District.

The following chart summarizes the changes in permitted uses within different zones of the Overlay District (changes are shown as **bold redlines**):

---

<sup>2</sup> That is, the size of project that may be developed as-of-right, versus those that must undergo the special permit (SP) review process.

KEY: Y = Permitted SP = Special Permit SPSR = Special Permit with Site Plan Review

	<b>CBD</b>	<b>BA</b>	<b>BB</b>	<b>IA</b>	<b>RC</b>
<b>Artists housing:</b> up to 6 units	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Artists housing: 7+ units	SPSR	SPSR	SPSR	SPSR	SPSR
<b>Art Gallery:</b> <10,000 g.s.f.	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Art Gallery: 10,000+ g.s.f.	SPSR	SPSR	SPSR	SPSR	SPSR
<b>Theater:</b> <10,000 g.s.f.	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Theater: 10,000+ g.s.f.	SPSR	SPSR	SPSR	<b>SPSR</b>	SPSR
<b>Artist's studio:</b> <5,000 g.s.f.	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Artist's studio: 5,000+ g.s.f.	<b>SPSR</b>	<b>SPSR</b>	<b>SPSR</b>	<b>SPSR</b>	<b>SPSR</b>
<b>Crafts store:</b> <5,000 g.s.f.	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Crafts store: 5,000-9,999 g.s.f.	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Crafts store: 10,000+ g.s.f.	SPSR	SPSR	SPSR	SPSR	<b>SPSR</b>

The Challenge: No incentives for conversion of existing buildings and redevelopment of infill lots; Unrealistic parking requirements discourage reuse of existing buildings

Although ground floor retail uses are generally strong throughout Union Square, there is a significant amount of unused space on the upper floor of existing buildings that are well suited for conversion to artist's live-work housing. There are also a number of vacant infill parcels that could be redeveloped for the same use. As well as use restrictions and overly stringent requirements for special permits, parking constraints under current zoning can impede these projects, as well as the reuse of vacant ground-floor spaces for new retail uses.

Recommendations: Provide incentives for the development of Artists Housing; don't require increased parking for reuse of existing buildings

The new zoning will encourage the reuse of existing buildings, and the redevelopment of small infill parcels, by granting a 25% density bonus for artists housing solely within the Arts Overlay District. Within the Overlay District, the maximum FAR for Artists Housing will increase from 2.0 to 2.5, and the maximum residential density will increase from 43 units/acre to 55 units / acre. In addition, to reduce the regulatory burden on small projects, the threshold for requiring a special permit for Artists Housing will increase within the Arts Overlay District from 5 units to 7 units.

Within the Arts Overlay District, whenever an existing building is being redeveloped for another permitted use, no additional parking will be required so long as there is no increase in the net floor area. If the building is enlarged, then increased parking requirements will apply.

## **Appendix A: Artists Studio Zoning Approaches from other communities**

Other cities have defined different kinds of artists studios in greater detail through their zoning. Boston, Cambridge, and Amesbury MA each define a work-only studio for artists and craftspeople as a permitted use in certain zoning districts. Boston and Amesbury also define live/work studios separately, as allowing the uses permitted in a work-only studio, plus residential space.

Under the Boston Zoning Code, for work-only studios, “Art use” is defined as “the creation, manufacture, or assemblage of visual art, including two- or three-dimensional works of fine art or craft, or other fine art objects created, manufactured, or assembled for the purpose of sale, display, commission, consignment, or trade by artists or artisans; or classes held for art instruction.” [Art. 2; Art. 2A] For live/work studios, “Artists mixed-use” is defined as “the use of all or a portion of a building for both art use and habitation.” [Art. 2; Art. 2A] In Boston, both work-only and live/work studios are permitted as-of-right in any Light Manufacturing (LM) District, where no other residential uses are allowed, even by special permit. [Boston Zoning, Art. 36] In addition, work-only and live/work studios are allowed uses in most of the downtown and adjacent districts. [Boston Zoning, Art. 38 through 46] In addition, the Boston Zoning Code defines a third category of performance-related studio. “Arts Studio” is a use defined as “a studio for professional work or teaching of music, dancing, or theatrical arts to students.” [Art. 2A]

In Cambridge, a work-only Arts Crafts Studio is permitted by Special Permit in multi-family residential and office districts, in non-residential buildings only, with no more than 3 persons practicing or employed at one time. [Cambridge Zoning, §4.28] In Amesbury, live/work studios are allowed by Special Permit in the Downtown Artists Live-work District (DAD).

The Boston Redevelopment Authority (BRA) has issued design guidelines for artist live/work spaces, including minimum square footages, and standards for ceiling heights, floor loads, accessibility, security, fire safety, lighting, noise, trash and hazardous materials disposal, and common areas.

## Appendix B: Enforcement and Certification of Artists Studios

Cities including Boston and Jersey City, NJ employ a certification process to verify that artist's housing created under their zoning is indeed occupied by artists. Boston has required developers to impose deed restrictions to ensure that artists' live/work studios are permanently restricted for use by artists only. The deed restrictions (or other, shorter-term legal restrictions) are enforced through a certification process, conducted by the Boston Redevelopment Authority (BRA) through a peer review process. Certification is good for 5 years. Jersey City, NJ has a similar peer review process, leading to a 5-year certification, as part of its Work and Live District Overlay (WALDO) zoning ordinance. The ordinance sets aside 51% of all residential units in each building for artists' live/work space.

Providence, RI has focused on the enforceability of different types of arts-related uses. The city's zoning offers height and density incentives to projects in its DownCity District that set aside certain percentages of their ground floor space for arts-related uses, including art galleries and performance spaces. Such spaces must be legally restricted to these uses for at least 5 years, through a recorded lien.

The City of Somerville **could** adopt a program for the certification of artists, to verify the occupancy of newly created artists' housing. The program would address issues including the following:

- Who is eligible for certification
- Makeup of the peer review panel
- Process of review
- Standards for certification
- Time period that certification is good for
- How certification is enforced within projects

To provide greater flexibility in modifying the program in the future, once city agencies have gained greater experience in administering it, this program would not be incorporated into the Zoning Code. Rather, it would be enforced through adoption of an informal written policy, through the project review process.